

Figure: 16 TAC §4.107(j)

Table 5. Penalty Calculation Worksheet

	Rule	General Description	Guideline Minimum Penalty Amount or Range	Penalty Tally
		§4.101. Prevention of Pollution		
1	16 TAC §4.101(a)	Pollution of surface or subsurface water	\$2,500 to \$10,000	\$
		§4.102. Responsibility for Oil and Gas Wastes		
2	16 TAC §4.102(a)(1)(2)(3)	Failure to provide and perform field testing as required by the Commission	\$2,500	\$
3	16 TAC §4.102(b)(c)(d)(f)(1)(2)	Failure to utilize the services of a carrier with a valid permit	\$2,500	\$
4	16 TAC §4.102(g)	Manage oil and gas wastes in a manner that violates Commission rules.	\$2,500	\$
		§4.103. Prohibited Waste Management Methods		
5	16 TAC §4.103(a)	Manage oil and gas wastes without a permit.	\$2,500	\$
6	16 TAC §4.103(b)	Improper disposal of oil and gas waste; enhance for actual or threatened pollution: Dry pit area	\$500 base penalty plus \$0.30/sq.ft.	\$
7	16 TAC §4.103(b)	Improper disposal of oil and gas waste; enhance for actual or threatened pollution: Wet pit area	\$500 base penalty plus \$0.50/sq.ft.	\$
8	16 TAC §4.103(c)(d)(e)(f)	Use of prohibited pits: Fresh water pit area	\$2,500 base plus \$0.25/sq.ft.	\$
9	16 TAC §4.103(c)(d)(e)(f)	Use of prohibited pits: Salt water or other fluid area	\$2,500 base plus \$0.75/sq.ft.	\$
		§4.111. Authorized Disposal Methods for Certain Wastes		
10	16 TAC §4.111(a)(b)(c)(d)	Improper waste disposal method for water condensate, inert oil and gas, low chloride water-based drilling fluid, and other oil and gas wastes that pertain land apply and landfarming	\$2,500	\$
11	16 TAC §4.111(d)(4)	Failure to maintains documentation for 3 years demonstrating closure requirements have been met	\$1,000	\$
		§4.112. Authorized Recycling		\$
12	16 TAC §4.112 (a)(1)	Improper use of the recycled treated fluid	\$2,500	\$
13	16 TAC §4.112 (a)(3)	Recycling of unauthorized oil and gas waste	\$2,500	\$

		§4.113. Authorized Pits		
14	16 TAC §4.113(a)	Failure to maintain authorized pits in compliance with the Commission	\$5,000	\$
15	16 TAC §4.113 (e)(5)	Improper use of pits other than what they are designated for	\$2,500	\$
		§4.114. Schedule A Authorized Pits		
16	16 TAC §4.114(1)(A)	Reserve pits: Fresh water pit area	\$2,500 base plus \$0.25/sq. ft.	\$
17	16 TAC §4.114(1)(A)	Reserve pits: Salt water or other fluid area	\$2,500 base plus \$0.75/sq. ft.	\$
18	16 TAC §4.114(1)(B)(2)(A)(B)(i)(ii)	Workover and other pits: Dry	\$2,500	\$
19	16 TAC §4.114(1)(B)(2)(A)(B)(i)(ii)	Workover and other pits: wet	\$5,000	\$
		§4.115. Schedule B Authorized Pits		
20	16 TAC §4.115	Produced water pit: Fresh water pit area	\$2,500 base plus \$0.25/sq.ft.	
21	16 TAC §4.115	Produced water pit: Salt water or other fluid area	\$2,500 base plus \$0.75/sq.ft	
		§4.122. Permit Renewals, Transfers, and Amendments		
22	16 TAC §4.122(b)(1)	Failure to apply for a renewal, transfer or amendments permits within Commission's time frames.	\$1,000	\$
		§4.123. Permit Modification, Suspension, and Termination		
23	16 TAC §4.123(b)(4)	The permittee has violated the terms and conditions of the permit or Commission rules	\$5,000	\$
24	16 TAC §4.123(b)(9)	The permittee failed to give the notice required by the Commission during the permit issuance, amendment, or renewal process	\$1,000	\$
		§4.128. Design and Construction		
25	16 TAC §4.128(b)(1)	Failure to only accept waste transported and delivered by a Commission-permitted waste hauler	\$2,500	\$
		§4.129. Operation		
26	16 TAC §4.129(b)(1)	Failure to receive only authorized waste	\$2,500	\$
27	16 TAC §4.129(b)(2)	Treated or untreated, waste placed directly on the ground	\$2,500	\$

28	16 TAC §4.129(b)(3)	Failure to maintained storage tanks, equipment, and on-site containment in a leak-free condition	\$2,500	\$
29	16 TAC §4.129(b)(4)	Failure to dispose spill of waste, chemical, or any other material within 24 hours in an authorized manner	\$2,500	\$
		§4.130. Reporting		
30	16 TAC §4.130 (d)	Failure to submit of monthly, quarterly, semi-annual, or annual reports, containing all requested information within the Commission's timeframe	\$1,000	\$
		§4.131. Monitoring		\$
31	16 TAC §4.131 (b)(4)(D)	Failure to report or indicate potential pollution, or the potential failure of the liner system to the Commission	\$2,500	\$
		§4.132. Closure		\$
32	16 TAC §4.132 (a)(b)(1)(2)(A)(B)(C)(D)(E) (F)	Failure to follow recommended closure procedures	\$2,500	\$
		§4.142. Operating Requirements Applicable to Commercial Facilities		
33	16 TAC §4.142(c)	Failure to develop and maintain a stormwater management plan to prevent stormwater from running onto the facility	\$2,500	\$
		§4.150. Additional Requirements Applicable to Permitted Pits		
34	16 TAC §4.150(e)	Failure to comply with containment requirements to prevent pollution of surface or subsurface water	\$2,500	\$
35	16 TAC §4.150(f)	Failure to report unauthorized release of oil and gas waste, treated fluid, or other substances from any pit	\$2,500	\$
		§4.151. Design and Construction of Permitted Pits		
36	16 TAC §4.151(b)(1)	Failure to comply with sign requirements.	\$1,000	\$
37	16 TAC §4.151(b)(2)	Failure to comply with freeboard requirements	\$2,500	\$
38	16 TAC §4.151(b)(3)	Failure to comply with liner requirements	\$2,500	\$
39	16 TAC §4.151(b)(3)(A)	Failure to maintain the integrity of the liner.	\$2,500	\$
40	16 TAC §4.151(b)(3)(C)	Brine pit permitted not constructed with a primary and secondary liner and a leakage detection system	\$2,500	\$
		§4.152. Monitoring of Permitted Pits		
41	16 TAC §4.152(a)(2)	Failure to install appropriate leak detection system	\$2,500	\$
42	16 TAC §4.152(b)(3)(A)(B)	Failure to monitor and report and repair all pits for liner failure	\$2,500	\$

		§4.153. Commercial Disposal Pits		\$
43	16 TAC §4.153(c)	Failure to monitor the pits after a post-closure period of no less than five years	\$2,500	\$
		§4.154. Closure of Permitted Pits		
44	16 TAC §4.154(1)	Failure to dewater and empty the pit within 120 days of cessation of use	Dry: \$2,500 base plus \$0.25 sq. ft.; wet: \$2,500 base plus \$0.75 sq. ft.	\$
45	16 TAC §4.154(2)	Failure to backfill and compacted the pit in a timely manner	Dry: \$2,500 base plus \$0.25 sq. ft.; wet: \$2,500 base plus \$0.75 sq. ft.	\$
46	16 TAC §4.154(3)	Failure to reseeded with vegetation natural to the region after closure	\$1,000	\$
		§4.161. Design and Construction Requirements for Landfarming and Landtreating Permits		
47	16 TAC §4.161(a)	Failure to obtain a Landfarm permit	\$5,000	\$
		§4.162. Operating Requirements for Landfarming and Landtreating Permits		
48	16 TAC §4.162(a) (b)	Failure comply and follow the operating requirements for Landfarm permit	\$5,000	\$
		§4.163. Monitoring		\$
49	16 TAC §4.163(a)(b)(c)(d)(e)	Failure to collect, test, monitor, analyze, remediate according to the requirements in the permit	\$1,000	\$
		§4.164. Closure		
50	16 TAC §4.164(a)	Failure to notify the Commission at least 45 days prior to commencing closure activities	\$1,000	\$
		§4.170. Additional Requirements for Reclamation Plants		
51	16 TAC §4.170(a) (9)	Failure to obtain a permit to reclaim unrefined hydrocarbons recovered from drilling mud	\$5,000	\$
		§4.171. Standard Permit Provisions		
52	16 TAC §4.171(b)	Failure to renew, transfer, or amend reclamation plant permits	\$2,500	\$
53	16 TAC §4.171(g)	Improper monitoring of a reclamation plant	\$2,500	\$
54	16 TAC §4.171(h)	Use of a satellite facility which is prohibited	\$2,500	\$
55	16 TAC §4.171(i)	Unpermitted reclamation using tanks	\$2,500	\$
		§4.172. Minimum Permit Provisions for Operations		
56	16 TAC §4.172(a)(1)	Failure to use authorized permit methods to reclaim tank bottoms and other oil and gas wastes	\$2,500	\$
		§4.173. Minimum Permit Provisions for Reporting		

57	16 TAC §4.173(d)	Failure to obtain a minor permit and provide an analysis of the disposable material to be performed	\$1,000	\$
§4.181. Emergency Permits				
58	16 TAC §4.181(a)	Failure to apply for emergency permit to prevent the waste of oil, gas, or geothermal resources and/or pollution	\$1,000	\$
§4.184. Permitted Recycling				
59	16 TAC §4.184(b)	Failure to recycle in accordance with Subchapter B of this title (relating to Commercial Recycling)	\$1,000	\$
§4.190. Oil and Gas Waste Characterization and Documentation				
60	16 TAC §4.190(a)	Failure to characterizing and documenting the waste prior to transportation	\$1,000	\$
§4.193. Oil and Gas Waste Haulers				
61	16 TAC §4.193(a)	Hauling oil and gas waste without a valid waste hauler permit, and/or commingling other oil and gas wastes via vehicle	\$2,500	\$
62	16 TAC §4.193(b)(1)(2)	Failure to hold necessary permits for wastes excluded from this section	\$1,000	\$
63	16 TAC §4.193(e) (1)(2)(3)(4)(5)(6)(7)(8) (9)(10)(11)	Failure to operate in strict compliance with the instructions and conditions stated in the oil and gas waste hauler permit	\$2,500	\$
64	Subtotal of guideline penalty amounts from Table 1 (lines 1-63, inclusive)			\$
65	Reduction for settlement before hearing: up to 50% of line 64 amt.		%	\$
66	Subtotal: amount shown on line 64 less applicable settlement reduction on line 65			\$
Penalty enhancement amounts for threatened or actual pollution from Table 3				
67	Agricultural land or sensitive wildlife habitat		\$1,000 to \$5,000	\$
68	Endangered or threatened species		\$2,000 to \$10,000	\$
69	Bay, estuary or marine habitat		\$5,000 to \$25,000	\$
70	Minor freshwater source (minor aquifer, seasonal watercourse)		\$2,500 to \$7,500	\$
71	Major freshwater source (major aquifer, creeks, rivers, lakes and reservoirs)		\$5,000 to \$25,000	\$
Penalty enhancement amounts for safety hazard from Table 3				
72	Impacted residential/public areas		\$1,000 to \$15,000	\$
73	Hazardous material release		\$2,000 to \$25,000	\$
74	Reportable incident/accident		\$5,000 to \$25,000	\$
75	Well in H2S field		up to \$10,000	\$
Penalty enhancement amounts for severity of violation from Table 3				
76	Time out of compliance		\$100 to \$2,000 each month	\$
77	Subtotal: amount shown on line 66 plus all amounts on lines 67 through 76, inclusive			\$

Penalty enhancements for culpability of person charged from Table 3			
78	Reckless conduct of operator	double line 75 amount	\$
79	Intentional conduct of operator	triple line 75 amount	\$
Penalty enhancements for number of prior violations within past seven years from Table 4			
80	One	\$1,000	\$
81	Two	\$2,000	\$
82	Three	\$3,000	\$
83	Four	\$4,000	\$
84	Five or more	\$5,000	\$
Penalty enhancements for amount of penalties within past seven years from Table 4			
85	Less than \$10,000	\$1,000	\$
86	Between \$10,000 and \$25,000	\$2,500	\$
87	Between \$25, 000 and \$50,000	\$5,000	\$
88	Between \$50,000 and \$100,00	\$10,000	\$
89	Over \$100,000	10% of total amt.	\$
90	Subtotal: Line 66 amt. plus amts. on line 78 and/or 97 plus the amt. shown on any line from 80 through 89, inclusive		\$
91	Reduction for demonstrated good faith of person charged		\$
92	TOTAL PENALTY AMOUNT: amount on line 90 less any amount shown on line 91		\$